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Members*

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

**AMADO HARO and ROCHELLE
ORTEGA, On Behalf of Themselves and
All Others Similarly Situated,**

Plaintiff,

v.

WALMART, INC.,

Defendant.

Case No. 1:21-CV-00239-DAD-SKO

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR CONDITIONAL
CERTIFICATION OF A COLLECTIVE
ACTION PURSUANT TO 29 U.S.C. §
216(b) AND REQUEST TO SEND
COURT-AUTHORIZED NOTICE**

Date: December 14, 2022
Time: 9:30 a.m. PST
Courtroom: 7, 6th Floor

Action filed: Feb. 23, 2021
Trial Date: TBD

TO THE COURT, DEFENDANT, AND ALL COUNSEL OF RECORD:

NOTICE IS HEREBY GIVEN that on September 22, 2022 in Courtroom 7, 6th Floor of the above Court, located at the Robert E. Coyle Federal Courthouse, 2500 Tulare Street, Fresno, California 93721, the Honorable Sheila K. Oberto presiding, Plaintiffs Amado Haro and Rochelle Ortega will

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PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR CONDITIONAL CERTIFICATION OF A
COLLECTIVE ACTION PURSUANT TO 29 U.S.C. § 216(b) AND REQUEST TO SEND COURT-AUTHORIZED
NOTICE

Haro, et al. v. Walmart, Inc., Case No. 1:21-CV-00239-DAD-SKO

1 seek an Order conditionally certifying this case as a collective action pursuant to the Fair Labor
2 Standards Act (“FLSA”), 29 U.S.C. § 216(b) and to send Court-authorized notice to the putative
3 collective members. Plaintiffs will proceed upon this Motion, the accompanying Memorandum of
4 Points and Authorities, the accompanying Declarations and other evidence, and any other further
5 briefings and arguments of counsel.

6 **RELIEF SOUGHT:**

7 Plaintiffs request the Court conditionally certify the collective action pursuant to 29 U.S.C. §
8 216(b) for purposes of sending Court-authorized notice to the putative collective members, which will
9 apprise the putative collective members of their rights and afford them an opportunity to join this
10 action as “opt-in” plaintiffs should they choose to do so.

11 Plaintiffs further request that the Court approve and adopt Plaintiffs’ Proposed Notice Plan.¹
12 In accordance with that Proposed Notice Plan, Plaintiffs request that Defendant be compelled to
13 disclose the names and contact information, consisting of the last-known mailing addresses, telephone
14 numbers, email addresses, and the last four digits of Social Security numbers, as well as the dates of
15 work, for the following groups of individuals:

16 **California Collective**

17 All current and former hourly-paid employees of Walmart who
18 underwent a COVID-19 screening during at least one week in
California at any time from February 23, 2018 through the present.

19 **Nationwide Collective**

20 All current and former hourly-paid employees of Walmart who
21 underwent a COVID-19 screening during at least one week outside
of California at any time from February 23, 2018 through the
present.

22 This Motion is based on:

- 23 1. The Notice of Motion and Motion;
24 2. The Memorandum of Points and Authorities filed concurrently herewith;

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¹ Plaintiffs’ Proposed Notice Plan is being submitted concurrently by separate filing.

3. Plaintiffs' Proposed Notice Plan and supporting exhibits filed concurrently herewith;
4. The Compendium of Evidence² submitted concurrently herewith;
5. The pleadings, documents, and evidence on file in this case; and
6. All arguments of counsel and subsequent briefs, if any.

Date: August 15, 20202

Respectfully submitted,

HODGES & FOTY, LLP

/s/ Don J. Foty
Don J. Foty (*Pro Hac Vice*)
David W. Hodges (*Pro Hac Vice*)
William M. Hogg (SBN 338196)

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document(s) with the Clerk of Court for the United States District Court, Eastern District of California, by using the Court's CM/ECF system on August 15, 2022. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Court's CM/ECF system.

/s/ Don J. Foty
Don J. Foty

CERTIFICATE OF CONFERENCE

I hereby certify that I have conferred in good faith with Defendant before filing the instant motion. Unfortunately, the parties reached an impasse and Defendant is opposed to the Motion.

/s/ Don J. Foty
Don J. Foty

² The Compendium of Evidence will be submitted by separate filing.